

**IN THE UNITED STATE DISTRICT COURT
NORTHERN DISTRICT, OHIO
EASTERN DIVISION**

TRACI HARTNETT-MERCADO)	CASE NO.: 1:19cv973
)	
Plaintiff,)	JUDGE DAN A. POLSTER
)	
vs.)	
)	<u>PLAINTIFF'S</u>
CITY OF CLEVELAND, ET AL.)	<u>REVISED INITIAL DISCLOSURES</u>
)	
Defendants.)	

Pursuant to Fed. R. Civ. P. 26(a)(1), Plaintiff Traci Hartnett-Mercado (hereinafter “Plaintiff”) revises her Initial Disclosures:

With respect to Rule 26(a)(1)(A)(i), Plaintiff believes that the following individuals have discoverable information regarding this matter:

1. Plaintiff, Traci Hartnett-Mercado, will have knowledge regarding her employment with Defendants, her complaints regarding Defendants, her participation in the investigation into Defendant Ewais’ affairs, the retaliation she experienced and her damages;
2. Peter Mercado, will have knowledge regarding Plaintiff’s damages;
3. Defendant Khalil Ewais will have knowledge regarding Plaintiff’s complaints against him and the retaliation she experienced;
4. Defendant Richard Switalski will have knowledge regarding Plaintiff’s complaints against him and the retaliation she experienced;

5. Defendant Louis Griggs will have knowledge regarding Plaintiff's complaints against him;
6. Matthew Spronz will have knowledge regarding Plaintiff's complaints about Defendants and the retaliation Plaintiff experienced;
7. Marcia Johnson will have knowledge regarding Plaintiff's complaints about Defendants and the retaliation Plaintiff experienced;
8. DeAndre Benson will have knowledge regarding the retaliation Plaintiff experienced;
9. Austin Opalich will have knowledge regarding the retaliation Plaintiff experienced;
10. Vincent Callahan will have knowledge regarding the retaliation Plaintiff experienced;
11. Jessica Gift will have knowledge regarding Defendant Griggs' harassment of Plaintiff;
12. Susanne Degennaro will have knowledge regarding Defendant Griggs' harassment of Plaintiff;
13. Rick Cohan, Plaintiff's neighbor, will have knowledge regarding Defendant Griggs' harassment of Plaintiff;
14. John Petkac will have knowledge regarding Defendant Ewais' affairs and the retaliation Plaintiff experienced;
15. James Miller will have knowledge regarding the retaliation Plaintiff experienced;
16. Kimberly Harding will have knowledge regarding the retaliation Plaintiff experienced;

17. Nycole West will have knowledge regarding the retaliation Plaintiff experienced;
18. Physicians at North Ohio Heart/Ohio Medical Group who will have knowledge regarding Plaintiff's physical and/or mental condition;
19. Counselors at Ease At Work will have knowledge regarding Plaintiff's physical and/or mental condition;
20. Mary Jo Mazzolini will have knowledge regarding Plaintiff's physical and/or mental condition;
21. Dr. Muhammad Zahra will have knowledge regarding Plaintiff's physical and/or mental condition;
22. Dr. David Hahn will have knowledge regarding Plaintiff's physical and/or mental condition.
23. Laura Moyer, Med, MSN, RN, PMHCNS-BC of Family Behavioral Health Services will have knowledge regarding Plaintiff's physical and/or mental condition;
24. FBI Agent Robert Heiss who will have knowledge regarding Plaintiff's participation in the investigation into Defendant Ewais' affairs and the retaliation that she experienced;
25. FBI Agent Jennifer Piero who will have knowledge regarding Plaintiff's participation in the investigation into Defendant Ewais' affairs and the retaliation that she experienced;
26. FBI Agent Shawn Roth who will have knowledge regarding Plaintiff's participation in the investigation into Defendant Ewais' affairs and the retaliation that she experienced;

27. Individuals from Internal Affairs (names currently unknown) who will have knowledge regarding Plaintiff's participation in the investigation into Defendant Ewais' affairs and the retaliation that she experienced;
28. Individuals from Homeland Security (names currently unknown) who will have knowledge regarding Plaintiff's participation in the investigation into Defendant Ewais' affairs and the retaliation that she experienced.

Pursuant to Rule 26(a)(1)(A)(ii), Plaintiff is providing a description of the following documents relevant to this litigation that are currently in counsel's possession:

1. Emails among Plaintiff, Defendants and agents/employees of Defendant City of Cleveland detailing Plaintiff's complaints;
2. Documents related to disciplinary action taken against Plaintiff;
3. Documents related to disciplinary action taken against Defendant Griggs;
4. Documents related to Plaintiff's Civil Protective Order issued against Defendant Griggs;
5. Medical records and bills relevant to the physical/emotional injuries Plaintiff sustained;
6. Documents relating to Plaintiff's FMLA leave and attendance;

7. Documents relating to the charges Plaintiff filed with the Equal Employment Opportunity Commission as well as counsels' responses to those charges.

8. Documents produced in response to Plaintiff's FOIA request.

9. Plaintiff believes that Defendants are in possession of additional documentation responsive to this request.

Pursuant to Rule 26(a)(1)(A)(iii), Plaintiff's computation of each category of damages is as follows:

1. Non-economic damages Plaintiff suffered as a result of Defendants' conduct:	
	\$240,000.00
2. Compensate Ms. Mercado for all FMLA time used since August of 2016: (approximately 1,400 hours at \$28.77/hour).	
	\$ 40,278.00
3. Approximate out-of-pocket medical expenses to date	\$ 10,000.00
4. Payment of estimated expenses for treatment Ms. Mercado will require over the course of the next twelve (12) months:	
	\$ 2,500.00
5. Compensate Ms. Mercado for the security cameras she installed at her home as a result of Lou Griggs' threatening and harassing conduct:	
	\$ 1,000.00
6. Compensate Ms. Mercado for all suspensions served to date	\$ 3,000.00
7. Payment of Ms. Mercado's attorneys' fees:	\$42,500.00
TOTAL DAMAGES:	\$339,278.00

In addition to the above, Plaintiff demands that all disciplinary action be permanently removed from her personnel file.

In November of 2018, prior to the filing of the lawsuit, Plaintiff conveyed a demand in the amount of Three Hundred Eighteen Thousand Six Hundred Sixty-Six Dollars and fifty-nine

cents (\$318,666.59). After some recent discussions, and in response to the City's most recent offer, Plaintiff lowered her demand to Two Hundred Twenty-Five Thousand Dollars (\$225,000.00) as well as crediting her with one hundred twenty-five (125) days (1,000 hours of sick leave). In addition, she would still request that all disciplinary action be permanently removed from her personnel file.

Pursuant to Rule 26(a)(2)(A), Plaintiff may call the following individuals as expert witnesses: Dr. Walter Woljnar; Samantha Reid, LPCC, LCDCIH; Ruth Wilson, LISW; Mary Jo Mazzolini, LISW; Dr. Muhammad Zahra, Dr. David Hahn and Laura Moyer, Med, MSN, RN, PMHCNS-BC.

Respectfully Submitted,

/s/ Kristen M. Kraus

Kristen M. Kraus – 0073899 O.R.N.
DWORKEN & BERNSTEIN CO., L.P.A.
60 South Park Place
Painesville, OH 44077
Telephone: 440-352-3391
Facsimile: 440-352-3469
Attorney for Plaintiff
kmkraus@dworkenlaw.com

Dennis Niermann - 007988 O.R.N.
P. O. Box 202295
Shaker Heights, OH 44120
Telephone: 216-375-2696
Attorney for Plaintiff
dennis@niermannlaw.com

Attorneys for Traci Hartnett-Mercado

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was sent via email and regular U.S. Mail on

13th day of September, 2019:

Mark Webber, Esq.
Amanda Boutton, Esq.
601 Lakeside Avenue – Room 106
Cleveland, OH 44114

Paul M. Flannery, Esq.
Christos N. Georgalis, Esq.
Justin C. Withrow, Esq.
Flannery Georgalis, LLC
1375 East 9th Street – 30th Floor
Cleveland, OH 44114

Ralph C. Buss, Esq.
P. O. Box 705
168 East High Street
Painesville, OH 44077

/s/ Kristen M. Kraus

Kristen M. Kraus – 0073899 O.R.N.
kmkraus@dworkenlaw.com